

## CHAPTER 92: PROHIBITED NOISES

**BE IT ORDAINED** that the Alexander County Code of Ordinances, Chapter 92, **Prohibited Noises** is hereby deleted and replaced in its entirety with the following:

### **Section 92.01. Authority.**

This article is adopted pursuant to the authority granted to the board of commissioners in G.S. 153A-133 and for the purpose of regulating the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, frighten or affect the health and well-being of the county's citizens.

### **Section 92.02. Definitions.**

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

- (1) *Sound.* Any disturbance of the air that is detectable by the unaided human ear or which produces vibrations detectable by persons of ordinary sensibilities.
- (2) *Noise.* Any sound or combination of sounds which, because of its volume, duration or intensity, tends to annoy, disturb, injure, or endanger the comfort, health, peace or safety of persons of ordinary sensibilities.
- (3) *Sound amplification device.* Any device or instrument for amplifying the human voice, music or other sound, including but not limited to loudspeakers, audio equipment, stereos, radios or CD players, portable or otherwise.
- (4) *Person.* Any individual, association, firm, partnership or corporation.

### **Section 92.03. Noise Generally.**

It shall be unlawful for any person to authorize, allow, or cause to be emitted from any property or source under his control any noise that is unreasonably loud, raucous or disturbing so as to frighten, pose a danger to the health of, or seriously disturb any person of ordinary sensibilities who:

- (1) If the noise emanates from a source located on private property, is located on other property; or
- (2) If the noise emanates from a source located on a street or other public property, is located on private property or the street or other public property.

#### **Section 92.04. Particular Noise.**

Without limiting the generality of section 92.03, the following acts are specifically declared to be unlawful and in violation of this article:

- (1) The blowing of a horn on any motor vehicle except when the horn is used as a warning device.
- (2) The operation of any motor vehicle or any engine without a muffler, or with a muffler that is so defective or so designed that the vehicle emits an unusually loud noise.
- (3) The operation of a motor vehicle so as to create unusual noises through the screeching of tires or racing of engines.
- (4) The operation of a motor vehicle that is so loaded or so out of repair or that is operated in such a manner as to create loud grating, grinding, rattling, backfiring, or similar noises.
- (5) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or to warn of a danger.
- (6) The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced.
- (7) The excavation, erection, demolition, alteration or repair of any building in any area not zoned for commercial or industrial use at any time other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and Saturdays, except in case of urgent necessity in the interest of public safety.
- (8) The keeping of any animal or bird, which causes frequent, habitual, repeated or excessive noise.
- (9) The discharging of squibs, firecrackers, gunpowder, or other combustible substances without a permit issued by the county fire marshal's office.
- (10) The discharge of all manner of firearms is prohibited between the hours of 11:00 p.m. and 7:00 a.m., except as required in the hunting and taking of animal prey or in the defense of person or property.
- (11) The playing or use of any sound amplification device, television, or any musical instrument, so as to unreasonably disturb the comfort, quiet or repose of persons in any place of residence or so as to interfere substantially with the operations of any church, school, theater, library or other similar place of assembly, unless a noise permit has been obtained as required by section 92.06.

- (12) The use of any sound amplification device, musical instrument, or other device for the purpose of attracting attention by the creation of noise to any performance, show, sale, display, advertisement or merchandise, or other commercial venture, unless a noise permit has been obtained as required by section 92.06.
- (13) Operation of garage or service station machinery or equipment between the hours of 11:00 p.m. and 7:00 a.m. except where such activity is being operated in conformity with the county's zoning ordinance.
- (14) Operation of construction machinery or equipment between the hours of 11:00 p.m. and 7:00 a.m.
- (15) Operation of lawn mowers or other power-operated domestic tools out-of-doors between the hours of 11:00 p.m. and 7:00 a.m.

#### **Section 92.05. Exceptions**

The following are excepted from the application of sections 92.03 through 92.04.

- (1) Noise or sound emanating from scheduled outdoor, school sanctioned, athletic events.
- (2) Noise or sound of safety signals, warning devices, emergency pressure relief valves or church bells, provided that the church bells are not sounded for more than five minutes in any hour.
- (3) Noise or sound emanating from properly equipped aircraft operated in accordance with applicable federal rules and regulations.
- (4) Noise or sound emitted from any authorized emergency or public safety vehicle.
- (5) Noise or sound emanating from parades, street fairs, festivals or similar events which are conducted, sponsored or sanctioned by the county.
- (6) Noise or sound from railroad operations.
- (7) Noise or sound emanating from farm equipment.

#### **Section 92.06. Noise Permit.**

- (a) It shall be unlawful for any person to use or cause to be used any sound amplifying device, musical or other instrument for entertainment, advertising or other purposes, or to otherwise engage in any activity creating noise which exceeds the standards set forth in section 92.04, without obtaining a noise permit in advance of these activities.
- (b) All applications for noise permits shall be promptly considered and acted upon by the Sheriff or his designee. In considering and acting on all applications for permits, the Sheriff, or his designee, shall consider, but shall not be limited to, the following factors:
  - (1) The nature and duration of the proposed activity;
  - (2) Other uses in the vicinity or location proposed for the activity;
  - (3) Effect of the activity on nearby residential areas;
  - (4) Cultural, social, recreational and/or educational benefit of the proposed activity;
  - (5) Previous experience with the applicant; and
  - (6) Previous violations of the noise ordinance, if any, by the applicant.
- (c) Taking into consideration the factors listed in subsection (b) above, the sheriff, or his designee, shall issue a noise permit upon finding that the interest furthered by the proposed use or activity outweighs the public interest in maintaining peace and quiet at the time and place involved.
- (d) The sheriff, or his designee, may impose such reasonable and appropriate conditions upon the permit, as he deems necessary to assure that the proposed use will be consistent with the intent of this section.
- (e) The permit holder(s) shall agree to cooperate with the sheriff's office in enforcing the noise control ordinance by being available at the site of the event during the entire time for which a permit has been issued and capable of assisting any deputy in enforcing the noise control ordinance. Failure of the permit holder(s) to be present or to assist a sheriff's deputy in complying with this chapter will be cause for revocation of said permit.
- (f) A permit granted at least fourteen (14) days in advance of the activity shall require payment of a \$5.00 administrative fee. If a permit is required and granted less than fourteen (14) days in advance of the

activity, a fee of \$ 25.00 shall be required and the applicant will need to sign a waiver related to the activity.

(g) A permit may be denied or revoked in the following cases:

- (1) The activity constitutes a threat to the health, safety or welfare of others;
- (2) The applicant has violated any provisions of this article within 12 months preceding the date of the application;
- (3) The applicant violates any of the provisions during the time allowed for the permitted activity; or
- (4) The activity interferes with another previously permitted activity.

#### **Section 92.07. Noise Complaint Procedure.**

In the event any person has reasonable grounds for believing that any provision of the county's noise ordinance is being violated, he may make a report thereof to the sheriff's office, which shall investigate the alleged violation. If such investigation reveals a violation, the investigating officer has the authority to cause a written complaint to be made, and may issue a criminal citation for violation thereof.

#### **Section 92.08. Penalties and Remedies.**

- (1) Criminal penalties. Any sheriff's deputy may issue a criminal citation for violation of any ordinance concerning noise. A violation of any noise ordinance provision shall constitute a Class 3 misdemeanor. A third conviction within a five-year period shall constitute a Class 1 misdemeanor.
- (2) The county may seek to enforce this Article through any appropriate equitable action.
- (3) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.
- (4) The county may seek to enforce this article by using any one or a combination of the foregoing remedies.

This the 14th day of March, 2005.

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William L. Hammer, Chairman  
Alexander County Board of Commissioners

ATTEST:

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Jamie M. Starnes, Clerk to the Board